

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

CARASUE E. R.

Plaintiff,

1:23-cv-775 (BKS/MJK)

v.

MARTIN O'MALLEY,
Commissioner Of Social Security,

Defendant.

Appearances:

For Plaintiff:

Justin M. Goldstein
Melissa Kubiak
Law Offices of Kenneth Hiller, PLLC
6000 North Bailey Avenue, Suite 1A
Amherst, NY 14226

For Defendant:

Carla Freedman
United States Attorney
Jason P. Peck, Special Assistant United States Attorney
Social Security Administration
6401 Security Boulevard
Baltimore, MD 21235

Hon. Brenda K. Sannes, Chief United States District Judge:

MEMORANDUM-DECISION AND ORDER

Plaintiff filed this action under 42 U.S.C. § 405(g) seeking review of the Commissioner of Social Security's denial of her applications for Disability Insurance Benefits, and Supplemental Security Income. (Dkt. No. 1). This matter was referred to United States Magistrate Judge Mitchell J. Katz for a Report and Recommendation. (Dkt. No. 5); Local Rule 73.2(d). On March 18, 2024, after reviewing the parties' briefs, (Dkt. Nos. 11, 16, 18), and the

Administrative Transcript, (Dkt. No. 10), Magistrate Judge Katz issued a Report-Recommendation recommending that Plaintiff's motion for judgment on the pleadings be granted, that Defendant's motion for judgment on the pleadings be denied and that the decision of the Commissioner be reversed, and this action be remanded to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings. (Dkt. No. 19). Magistrate Judge Katz advised the parties that under 28 U.S.C. § 636(b)(1), they had "14 days within which to file written objections" to the Report-Recommendation and that "failure to object to th[e] report within 14 days will preclude appellate review." (Dkt. No. 19 at 19–20 (citing *Roldan v. Racette*, 984 F.2d 85 (2d Cir. 1993); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72, 6(a), 6(e)). No objections were filed.

The Court reviews de novo those portions of the Magistrate Judge's findings and recommendations that have been properly preserved with a specific objection. *Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); 28 U.S.C. § 636(b)(1)(C). Findings and recommendations as to which there was no properly preserved objection are reviewed for clear error. *Id.* Neither of the parties has raised any objection to Magistrate Judge Katz's Report and Recommendation. The Court has reviewed the Report-Recommendation for clear error and found none.

For these reasons, it is hereby

ORDERED that Magistrate Judge Katz's Report-Recommendation (Dkt. No. 19) is **ADOPTED** in all respects; and it is further


ORDERED that Plaintiff's motion for judgment on the pleadings (Dkt. No. 11) is **GRANTED**; and it is further

ORDERED that Defendant's motion for judgment on the pleadings (Dkt. No. 16) is **DENIED**; and it is further

ORDERED that the decision of the Commissioner is **REVERSED**, and this action is **REMANDED** to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings.

IT IS SO ORDERED.

Dated: April 16, 2024
Syracuse, New York


Brenda K. Sannes
Chief U.S. District Judge